

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SAM SUK CHOI,

Plaintiff,

Index No.: 1:23-cv-00541-EK-PK

ANSWER

-against-

D PRIME INC. d/b/a SUNG BOOK DONG and
MI SUK CHOI,

Defendants.
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Defendants D PRIME INC. d/b/a SUNG BOOK DONG and MI SUK CHOI (the
“Defendants”) by and through their attorneys, AHNE & JI, LLP, answer the Plaintiff’s Complaint
as follows:

1. Deny each and every allegation contained in paragraph “1” of the Complaint.
2. Deny each and every allegation contained in paragraph “2” of the Complaint.
3. Deny each and every allegation contained in paragraph “3” of the Complaint.
4. Lack information or knowledge sufficient to ascertain the truth or accuracy of the
allegations contained in paragraph “4” of the Complaint.
5. Deny each and every allegation contained in paragraph “5” of the Complaint.
6. Deny each and every allegation contained in paragraph “6” of the Complaint.
7. Deny each and every allegation contained in paragraph “7” of the Complaint.
8. Deny each and every allegation contained in paragraph “8” of the Complaint.
9. Deny each and every allegation contained in paragraph “9” of the Complaint.
10. Deny each and every allegation contained in paragraph “10” of the Complaint.
11. Deny each and every allegation contained in paragraph “11” of the Complaint.
12. Deny each and every allegation contained in paragraph “12” of the Complaint.

13. Deny each and every allegation contained in paragraph “13” of the Complaint.
14. Deny each and every allegation contained in paragraph “14” of the Complaint.
15. Deny each and every allegation contained in paragraph “15” of the Complaint.
16. Deny each and every allegation contained in paragraph “16” of the Complaint.
17. Deny each and every allegation contained in paragraph “17” of the Complaint.
18. Deny each and every allegation contained in paragraph “18” of the Complaint.
19. Deny each and every allegation contained in paragraph “19” of the Complaint.
20. Deny each and every allegation contained in paragraph “20” of the Complaint.
21. Deny each and every allegation contained in paragraph “21” of the Complaint.
22. Deny each and every allegation contained in paragraph “22” of the Complaint.
23. Deny each and every allegation contained in paragraph “23” of the Complaint.
24. Deny each and every allegation contained in paragraph “24” of the Complaint.
25. Deny each and every allegation contained in paragraph “25” of the Complaint.
26. Deny each and every allegation contained in paragraph “26” of the Complaint.
27. Deny each and every allegation contained in paragraph “27” of the Complaint.
28. Deny each and every allegation contained in paragraph “28” of the Complaint.
29. Deny each and every allegation contained in paragraph “29” of the Complaint.
30. Deny each and every allegation contained in paragraph “30” of the Complaint.
31. Deny each and every allegation contained in paragraph “31” of the Complaint.
32. Deny each and every allegation contained in paragraph “32” of the Complaint.
33. Deny each and every allegation contained in paragraph “33” of the Complaint.
34. Deny each and every allegation contained in paragraph “34” of the Complaint.
35. Deny each and every allegation contained in paragraph “35” of the Complaint.

36. Deny each and every allegation contained in paragraph “36” of the Complaint.

37. Deny each and every allegation contained in paragraph “37” of the Complaint.

38. Deny each and every allegation contained in paragraph “38” of the Complaint.

39. Deny each and every allegation contained in paragraph “39” of the Complaint.

40. All of the allegations contained in paragraph “40” of the Complaint constitute legal conclusions to which no response is required. To the extent that a response is required, they are denied, and the Defendants refer questions of law to the Court.

41. Deny each and every allegation contained in paragraph “41” of the Complaint.

42. Deny each and every allegation contained in paragraph “42” of the Complaint.

43. Deny each and every allegation contained in paragraph “43” of the Complaint.

44. Deny each and every allegation contained in paragraph “44” of the Complaint.

45. Deny each and every allegation contained in paragraph “45” of the Complaint.

46. Deny each and every allegation contained in paragraph “46” of the Complaint.

47. Deny each and every allegation contained in paragraph “47” of the Complaint.

48. All of the allegations contained in paragraph “48” of the Complaint constitute legal conclusions to which no response is required. To the extent that a response is required, they are denied, and the Defendants refer questions of law to the Court.

49. Deny each and every allegation contained in paragraph “49” of the Complaint.

50. All of the allegations contained in paragraph “50” of the Complaint constitute legal conclusions to which no response is required. To the extent that a response is required, they are denied, and the Defendants refer questions of law to the Court.

51. Respond to the allegations incorporated by reference in paragraph “51” of the Complaint in the same manner as said incorporated allegations were previously responded to herein.

52. All of the allegations contained in paragraph “52” of the Complaint constitute legal conclusions to which no response is required. To the extent that a response is required, they are denied, and the Defendants refer questions of law to the Court.

53. All of the allegations contained in paragraph “53” of the Complaint constitute legal conclusions to which no response is required. To the extent that a response is required, they are denied, and the Defendants refer questions of law to the Court.

54. Deny each and every allegation contained in paragraph “54” of the Complaint.

55. Deny each and every allegation contained in paragraph “55,” including subparagraphs 55(a) and 55(b), of the Complaint.

56. Deny each and every allegation contained in paragraph “56” of the Complaint.

57. Deny each and every allegation contained in paragraph “57” of the Complaint.

58. Deny each and every allegation contained in paragraph “58” of the Complaint. Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “58” of the Complaint.

59. Respond to the allegations incorporated by reference in paragraph “59” of the Complaint in the same manner as said incorporated allegations were previously responded to herein.

60. All of the allegations contained in paragraph “60” of the Complaint constitute legal conclusions to which no response is required. To the extent that a response is required, they are denied, and the Defendants refer questions of law to the Court.

61. Deny each and every allegation contained in paragraph “61” of the Complaint.

62. Deny each and every allegation contained in paragraph “62” of the Complaint.

63. Deny each and every allegation contained in paragraph “63” of the Complaint.

Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “63” of the Complaint.

64. Respond to the allegations incorporated by reference in paragraph “64” of the Complaint in the same manner as said incorporated allegations were previously responded to herein.

65. Deny each and every allegation contained in paragraph “65” of the Complaint.

66. Deny each and every allegation contained in paragraph “66” of the Complaint.

67. Deny each and every allegation contained in paragraph “67” of the Complaint.

68. Deny each and every allegation contained in paragraph “68” of the Complaint.

Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “68” of the Complaint.

69. Respond to the allegations incorporated by reference in paragraph “69” of the Complaint in the same manner as said incorporated allegations were previously responded to herein.

70. Deny each and every allegation contained in paragraph “70” of the Complaint.

71. Deny each and every allegation contained in paragraph “71” of the Complaint.

72. Deny each and every allegation contained in paragraph “72” of the Complaint.

Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “72” of the Complaint.

73. Respond to the allegations incorporated by reference in paragraph “73” of the Complaint in the same manner as said incorporated allegations were previously responded to herein.

74. Deny each and every allegation contained in paragraph “74” of the Complaint.

75. Deny each and every allegation contained in paragraph “75” of the Complaint.

76. Deny each and every allegation contained in paragraph “76” of the Complaint.

77. Deny each and every allegation contained in paragraph “77” of the Complaint. Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “77” of the Complaint.

78. Respond to the allegations incorporated by reference in paragraph “78” of the Complaint in the same manner as said incorporated allegations were previously responded to herein.

79. Deny each and every allegation contained in paragraph “79” of the Complaint.

80. Deny each and every allegation contained in paragraph “80” of the Complaint.

81. Deny each and every allegation contained in paragraph “81” of the Complaint. Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “81” of the Complaint.

82. Deny each and every allegation contained in paragraph “82” of the Complaint. Defendants further deny that the Plaintiff is entitled to any relief sought in paragraph “82” of the Complaint.

FIRST AFFIRMATIVE DEFENSE

83. Plaintiff has failed to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

84. Plaintiff's claims are barred by the doctrine of waiver.

THIRD AFFIRMATIVE DEFENSE

85. Plaintiff's claims for damages are barred or reduced, in whole or in part, to the extent that he failed to properly mitigate the alleged damages.

FOURTH AFFIRMATIVE DEFENSE

86. Plaintiff's claims are barred by the doctrine of release.

FIFTH AFFIRMATIVE DEFENSE

87. Plaintiff's claims are barred by the doctrine of accord and satisfaction, settlement, and/or payment and release.

SIXTH AFFIRMATIVE DEFENSE

88. Defendants invoke the defenses, protections, and limitations of the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

SEVENTH AFFIRMATIVE DEFENSE

89. Plaintiff's claims are barred to the extent that the Plaintiff seeks recovery for time that is not compensable time, *i.e.*, "hours worked," under the Fair Labor Standards Act.

EIGHTH AFFIRMATIVE DEFENSE

90. To the extent that the Plaintiff seeks liquidated damages, the Plaintiff is not entitled to liquidated damages, as the Defendants did not act or fail to act in a manner sufficient to give rise to liquidated damages liabilities.

NINTH AFFIRMATIVE DEFENSE

91. Defendants are entitled to offset monies or other consideration paid or provided to the Plaintiff by the Defendants for periods in which the Plaintiff was not engaged to work.

92. Defendants reserve the right to allege additional defenses which may be discovered upon discovery in this action.

PRAYER FOR RELIEF

WHEREFORE, Defendants D PRIME INC. d/b/a SUNG BOOK DONG and MI SUK CHOI respectfully request judgment against the Plaintiff as follows:

- a. Dismissing the Plaintiff's Complaint with prejudice;
- b. Denying relief sought therein;
- c. Awarding the Defendants their costs, expenses, disbursements, and attorneys' fees in defending the Plaintiff's claims; and
- d. For such other, further, and different relief as the Court may deem just and proper.

Dated: February 14, 2023
New York, New York

AHNE & JI, LLP

/s/ Younghoon Ji

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